

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

| | | |
|--------------------------------------|---|---------------------|
| SYNTHES, INC., SYNTHES USA HQ, INC., | : | |
| SYNTHES USA, LLC, | : | CASE NO.: 11-1566 |
| SYNTHES USA SALES, LLC, and | : | |
| SYNTHES USA PRODUCTS, LLC, | : | JURY TRIAL DEMANDED |
| Plaintiffs, | | |
| v. | : | |
| EMERGE MEDICAL, INC., JOHN P. | : | |
| MAROTTA, ZACHARY W. STASSEN, ERIC | : | |
| W. BROWN, CHARLES Q. POWELL, ET AL. | : | |
| Defendants. | | |

ORDER

AND NOW, this ____ day of _____, 2013, upon consideration of the Motion to Compel Forensic Inspection Pursuant to Federal Rule of Civil Procedure 37 (hereinafter, the “Motion”) filed on behalf of Plaintiffs Synthes, Inc., Synthes USA HQ, Inc., Synthes USA, LLC, Synthes USA Sales, LLC, and Synthes USA Products, LLC (hereinafter, the “Plaintiffs”), and Defendants’ opposition thereto, **IT IS HEREBY ORDERED** that Plaintiffs’ Motion is **GRANTED**, and **it further is hereby ORDERED** that Defendant Emerge Medical, Inc. (hereinafter, “Emerge Medical”) shall, within five (5) days of the date of this Order, make the device(s) that had once been used by Zachary Stassen and from which Emerge Medical recovered Synthes’ engineering specification documents available for forensic inspection by a forensic consultant retained by Plaintiffs for that purpose.

BY THE COURT:

Ronald L. Buckwalter, S.J.

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| Defendants. | | |

**MOTION TO COMPEL FORENSIC INSPECTION
PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 37**

Plaintiffs Synthes, Inc., Synthes USA HQ, Inc., Synthes USA, LLC, Synthes USA Sales, LLC, and Synthes USA Products, LLC (collectively, “Synthes”) respectfully move this Court pursuant to Federal Rule of Civil Procedure 37 to enter an Order in the form attached hereto compelling Defendant Emerge Medical, Inc. (“Emerge Medical”) immediately to make available the device(s) that had been used by Zachary Stassen and from which Emerge Medical recovered Synthes’ engineering specification documents for forensic inspection by a forensic consultant retained by Synthes.

Synthes incorporates and relies upon the attached memorandum of law in support of its requests and as though set forth fully herein.

Respectfully submitted,

Dated: April 23, 2013

BLANK ROME LLP

/s/ Michael P. Broadhurst

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Attorneys for Plaintiffs Synthes, Inc., Synthes USA HQ, Inc., Synthes USA, LLC, Synthes USA Sales, LLC, and Synthes USA Products, LLC

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**MEMORANDUM OF LAW IN SUPPORT OF MOTION TO COMPEL
FORENSIC INSPECTION PURSUANT TO
FEDERAL RULE OF CIVIL PROCEDURE 37**

(FILED UNDER SEAL)

CERTIFICATE OF SERVICE

I, Ann Hodulik, hereby certify that on April 23, 2013, I caused a true and correct copy of the foregoing to be served hand-delivery and ECF delivery to:

Anne R. Myers, Esquire
Kaufman Dolowich Voluck & Gonzo LLP
1777 Sentry Pkwy W # 301
Blue Bell, PA 19422

*Attorneys for Defendants Emerge Medical, Inc., f/k/a
Emerge Surgical, Inc., Charles Q. Powell, and John P. Marotta*

Dated: April 23, 2013

/s/ Ann Hodulik

Ann Hodulik

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CERTIFICATE OF COMPLIANCE WITH RULE 26.1(f)

I, Michael P. Broadhurst, counsel to Plaintiffs Synthes, Inc., Synthes USA HQ, Inc., Synthes USA, LLC, Synthes USA Sales, LLC, and Synthes USA Products, LLC, certify that I and other attorneys with Blank Rome LLP met and conferred with counsel for Defendant Emerge Medical, Inc. in person, by telephone and by correspondence on multiple occasions over the past several weeks, and with respect to the Engineering Specification Documents more broadly months, in an effort to resolve without motion practice the discovery disputes raised in Synthes' Motion to Compel Forensic Inspection.

/s/ Michael P. Broadhurst
Michael P. Broadhurst

Dated: April 23, 2013